

## UNITED STATES DISTRICT COURT

for the  
District of New Mexico

In the Matter of the Search of  
(Briefly describe the property to be searched  
or identify the person by name and address)

The Person of  
Nathan MESCALE (year of birth 1989)

}

Case No. 23-MR-2235

**FILED**

United States District Court  
Albuquerque, New Mexico

Mitchell R. Elfers  
Clerk of Court

**APPLICATION FOR A WARRANT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS**

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

Attachment A

located in the \_\_\_\_\_ District of New Mexico, there is now concealed (identify the person or describe the property to be seized):

Attachment B

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- evidence of a crime;
- contraband, fruits of crime, or other items illegally possessed;
- property designed for use, intended for use, or used in committing a crime;
- a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

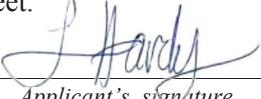
Code Section	Offense Description
18 U.S.C. § 1153	Crimes committed in Indian Country
18 U.S.C. § 113(a)(6)	Assault resulting in serious bodily injury
18 U.S.C. § 2241(a)(1)	Aggravated sexual assault using force

The application is based on these facts:

See affidavit, incorporated herein by reference.

Continued on the attached sheet.

Delayed notice of \_\_\_\_\_ days (give exact ending date if more than 30 days: \_\_\_\_\_) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

  
Applicant's signature

Lorraine Hardy, Special Agent

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by  
Sworn telephonically and submitted via email (specify reliable electronic means).

Date: December 4, 2023

  
Judge's signature

City and state: Farmington, New Mexico

B. Paul Briones, United States Magistrate Judge

Printed name and title

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

IN THE MATTER OF THE SEARCH OF:  
The Person of  
Nathan MESCALE, year of birth 1989

Case No. 23-MR-2235

**AFFIDAVIT IN SUPPORT OF AN APPLICATION FOR A SEARCH  
WARRANT**

I, Lorraine Hardy, being duly sworn, hereby depose and state as follows:

**INTRODUCTION AND AGENT BACKGROUND**

1. I make this affidavit in support of an application under Rule 41 of the Federal Rules of Criminal Procedure for a warrant to search the person of Nathan Mescala (hereinafter referred to as MESCALE), year of birth 1989, for the purpose of obtaining deoxyribonucleic acid (DNA) by collecting oral (buccal) swab samples according to the standard practices and procedures employed by the FBI for DNA testing and comparison. Based on the facts set forth in this affidavit, there is probable cause to believe that MESCALE violated federal criminal statutes, including but not limited to 18 U.S.C. § 1153, crimes committed in Indian Country, 18 U.S.C. § 113(a)(6) assault resulting in serious bodily injury, and 18 U.S.C. § 2241 (a)(1) aggravated sexual abuse using force. Because there is probable cause to believe MESCALE committed this crime, there is also probable cause to believe MESCALE's DNA will be found on several pieces of evidence collected in this criminal investigation, including swabs collected during JANE DOE's SANE examination as well as evidence collected during the execution of search warrant from the trailer where the assault took place. Therefore, probable cause exists to collect a DNA

sample from MESCALE via buccal swab to compare it with samples collected from lawfully seized evidence in this case.

2. I am currently serving as an FBI Special Agent assigned to the FBI, Albuquerque Division, Farmington Resident Agency, where I primarily investigate crimes that occur in Indian Country to include homicide, aggravated assault, child sexual assault, kidnapping and rape. I have been with the FBI for approximately 5 years. I have received on the job training from other experienced agents, detectives, Indian Country criminal investigators, and tribal police officers. My investigative training and experience includes, but is not limited to, processing crime scenes, conducting surveillance, interviewing subjects, targets, and witnesses, writing affidavits for and executing search and arrest warrants, examining cellular telephones; managing confidential human sources and cooperating witnesses/defendants, serving subpoenas, collecting and reviewing evidence, and analyzing public records.

3. This affidavit is based upon information reported to me by other federal, state, and local law enforcement officers during their official duties. Throughout this affidavit, reference will be made to law enforcement officers. Law enforcement officers are those federal, state, and local law enforcement officers who have directly participated in this investigation. This affidavit is also based upon information gained from interviews with cooperating citizen witnesses, whose reliability is established separately herein.

4. This affidavit is intended to show there is probable cause for the requested search warrant and does not set forth all of my knowledge about this matter. The statements in this affidavit are based on my personal knowledge, information that I have received from other law enforcement personnel, and from persons with knowledge regarding relevant

facts. Because this affidavit is being submitted for the limited purpose of securing a search warrant, I have not included each and every fact known to me concerning this investigation. I have set forth facts that I believe are sufficient to establish probable cause to obtain the requested warrant.

**PROBABLE CAUSE**

1. On or about December 3, 2023, at approximately 4:00 PM, the Farmington Resident Agency of the FBI was notified by Navajo Nation Department of Criminal Investigations (NNDCI) of a woman (hereinafter referred to as JANE DOE), year of birth 1985, was sexually assaulted in Sanostee, New Mexico and taken to Northern Navajo Medical Center (NNMC) in Shiprock with injuries.
2. JANE DOE was interviewed by law enforcement at approximately 5:00 PM at NNMC. It was learned JANE DOE was walking home on Hwy 491 in Shiprock, on December 2, 2023, at approximately 1:00 PM, when a late model blue Chevrolet pick-up truck (herein after referred to as the SUBJECT VEHICLE) bearing New Mexico license plate 442WYS, pulled over. A Native American male (later identified by law enforcement as MESCALE) jumped out of the SUBJECT VEHICLE and grabbed JANE DOE. JANE DOE attempted to run but MESCALE hit JANE DOE with a black handgun in the head. MESCALE threw JANE DOE into the truck and sped off heading South towards Sanostee. JANE DOE attempted to jump out of the SUBJECT VEHICLE, but MESCALE slammed JANE DOE's head into the dashboard rendering her unconscious.
3. JANE DOE woke up to MESCALE dragging her out of the SUBJECT VEHICLE towards a white single wide trailer with a shed attached. As soon as MESCALE got JANE DOE through the front door of the residence he ripped off all her clothes. JANE DOE was

completely naked. JANE DOE was bleeding really bad from her injuries. MESCALE dragged JANE DOE to the bathroom. JANE DOE kept fighting MESCALE, but he continued to through her around and punch her in the face with his fists. MESCALE threw JANE DOE into the bathtub, breaking the bottom of the bathtub. MESCALE was drinking a bottle of alcohol with a silver label on it and smoking something. MESCALE started pouring the alcohol over JANE DOE's face choking her. MESCALE told JANE DOE he was going to kill her, and nobody was going to find her. JANE DOE begged MESCALE to no hurt her.

4. MESCALE dragged JANE DOE out of the tub to the hallway where he raped her vaginally over and over again. MESCALE dragged JANE DOE to his bedroom and she tried to run. MESCALE caught JANE DOE in the living room and sat on her. MESCALE put his hands around her neck choking her until she passed out. JANE DOE urinated and defecated on the living room carpet. MESCALE kicked JANE DOE in the back while she was on the floor. JANE DOE stated throwing up. JANE DOE was scared she had a concussion because she felt like she was going to fall asleep. MESCALE continued to rape and beat JANE DOE all through the night and into the next morning.

5. The next morning MESCALE gave JANE DOE a pair of his black sweatpants and sweatshirt to wear. MESCALE walked a short distance away and JANE DOE jumped out of his bedroom window, breaking the window. JANE DOE ran with no shoes towards a brown house screaming "help me, help me". MESCALE was chasing JANE DOE with the handgun. A woman (hereinafter referred to as K.R., year of birth 1974) opened the door and hid JANE DOE inside her residence. K.R. called police. MESCALE ran to the back door and started kicking the back door yelling for JANE DOE. K.R.'s husband (hereinafter referred to as D.R.), year of birth 1973, went outside with a baseball bat and told MESCALE JANE DOE was not

there. K.R. and D.R. both observed MESCALE during the incident and identified him as their neighbor who lived in the single wide trailer next door. JANE DOE identified MESCALE, the man who chased her to the neighbor's house, as the same man who raped her.

6. MESCALE sat on the ground halfway between his residence and the neighbors waiting for JANE DOE to come out. Navajo Nation Police (NPD) officers arrived approximately thirty minutes later. MESCALE saw the officers and ran into the arroyo.

7. After an interview of NNMC Emergency Room Doctor, it was learned JANE DOE had sustained multiple contusions and abrasions. JANE DOE had several open cuts on her head and a Computed Tomography (CT) scan was ordered to identify any further injuries. CT scan result are pending. JANE DOE was scheduled for a Sexual Assault Nurses Exam (SANE) the following day.

8. Your affiant observed JANE DOE in the Emergency Room during the interview. JANE DOE was lying flat on her back with a C-collar around her neck. JANE DOE had multiple bruises and cuts on her face and several small bruises under her right jaw line on her neck. JANE DOE stated her pain level was a nine on a scale of one to ten.

9. The reported incident took place at  $\frac{1}{4}$  mile East of Sanostee Chapter House, GPS coordinates 36.4294730, -108.8615751, which is within the exterior boundaries of the Navajo Nation.

10. MESCALE and JANE DOE are certified member of the Navajo Nation.

### **CONCLUSION**

11. Based on my training, experience, and the facts as set forth in this affidavit, there is probable cause to believe that violations of 18 U.S.C. § 1153, crimes committed in Indian Country, 18 U.S.C. § 113(a)(6) assault resulting in serious bodily injury, and 18

U.S.C. § 2241 (a)(1) aggravated sexual abuse using force were committed by MESCALE and that evidence of such violations will be found on the person of Nathan Mescale, year of birth 1989, in the form of DNA. Said DNA is relevant and material in the context of forensic evaluation with regard to establishing MESCALE's participation in relation to the present investigation.

12. I respectfully request a search warrant be issued to search the person of Nathan Mescale, year of birth 1989, for the purpose of obtaining deoxyribonucleic acid (DNA) to compare with any DNA found on swabs collected during the SANE exam and other evidence seized in this matter.

13. Supervisory Assistant United States Attorney Elisa Dimas reviewed and approved this affidavit for legal sufficiency to establish probable cause.

Electronically subscribed and telephonically sworn to me on December 4th, 2023



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Lorraine Hardy  
Special Agent  
Federal Bureau of Investigation



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B. Paul Briones  
United States Magistrate Judge

ATTACHMENT A

PERSON TO BE SEARCHED

Nathan MESCALE, year of birth 1989. He currently or did reside at the location of the reported incident, which took place at  $\frac{1}{4}$  mile East of Sanostee Chapter House, GPS coordinates 36.4294730, -108.8615751. MESCALE's is pictured below.



ATTACHMENT B

PROPERTY TO BE SEIZED BY THE GOVERNMENT

The following material, which constitutes evidence of the commission of a criminal offense, namely violations of 18 U.S.C. § 1153, crimes committed in Indian Country, 18 U.S.C. § 113(a)(6) assault resulting in serious bodily injury, and 18 U.S.C. § 2241 (a)(1) aggravated sexual abuse using force:

1. Your affiant will use buccal swabs to collect DNA from MESCALE.